

REMARKS

In reply to the Office Action dated June 1, 2004, reconsideration is respectfully requested in view of the above amendments and the following remarks. Claims 6 and 10 are currently under examination and have been amended to remove reference to non-elected subject matter. Withdrawn claims 1-5, 7-9 and 11 have been canceled. New claim 12 has been added, support for which can be found in the specification as filed, for example at page 25, lines 25-27. The above amendment is not to be construed as acquiescence to the stated grounds for objection/rejection and is made without prejudice to prosecution of any subject matter modified and/or removed by this amendment in a related divisional, continuation and/or continuation-in-part application.

Applicants thank the Examiner for acknowledgment of the Information Disclosure Statements sent June 8, 2001, August 9, 2002, and March 12, 2003.

Priority

According to the Examiner, a review of the parent applications for the disclosure of claimed SEQ ID NO: 392 lends support for an earlier filing date of July 17, 2000 (corresponding to Application No. 09/617,747). The Examiner further states that although SEQ ID NO: 392 was disclosed an earlier application, Application No. 09/404,879, filed September 24, 1999, continuity of inventorship was broken and priority could not be granted to Application No. 09/404,879.

Applicants respectfully request reconsideration of the Examiner's conclusion on priority in light of the enclosed Petition to Correct Inventorship pursuant to 37 CFR 1.48(a). As set forth in the Petition, it has been found that the instant application, through error and without deceptive intent, improperly sets forth the inventorship. The correct inventors for the instant claims under consideration are Jennifer L. Mitcham, Gordon E. King and Paul A. Algate. In light of this correction of inventorship, Applicants respectfully submit that continuity is indeed present between the instant application and Application No. 09/404,879, filed September 24, 1999, and that priority to this earlier application should be properly granted.

Claims Rejections under 35 U.S.C. § 102

Claims 6 and 10 stand rejected as allegedly being anticipated under 35 U.S.C. § 102(a) over Baker et al. in WO 99/63088, filed June 2, 1999, published December 9, 1999.

Applicants note that this rejection is predicated on the Examiner's position that Applicants are entitled to priority only to Application No. 09/617,747, filed July 17, 2000, but not to Application No. 09/404,879, filed September 24, 1999. However, as set forth in the enclosed Petition to Correct Inventorship, the correct inventorship for the instant claims is Jennifer L. Mitcham, Gordon E. King and Paul A. Algate. In light of this correction of inventorship, Applicants respectfully submit that continuity is indeed present between the instant application and Application No. 09/404,879, filed September 24, 1999, and that priority to this earlier application can be properly granted. Accordingly, the Baker et al. reference, published December 9, 1999, does not represent prior art to the instant claims under 35 U.S.C. 102(a). Reconsideration of this rejection is respectfully requested.

Claims 6 and 10 stand rejected as allegedly being anticipated under 35 U.S.C. § 102(e) over Mitcham et al. in U.S. Patent No. 6,468,546, filed September 24, 1999, issued October 22, 2002.

Applicants note that the cited patent issued from an application to which the instant application now properly claims priority. More particularly, U.S. Patent No. 6,468,546 issued from Application No. 09/404,879, filed September 24, 1999, which is the same application to which the instant application now properly claims priority in view of the enclosed Petition to Correct Inventorship. Applicants submit that because the instant claims are entitled to priority to Application No. 09/404,879, filed September 24, 1999, which is the same application from which U.S. Patent No. 6,468,546 issued, this cited patent does not represent prior art to the instant claims under 35 U.S.C. 102(e). Reconsideration of the Examiner's rejection is respectfully requested.

Application No. 09/827,271
Reply to Office Action dated June 1, 2004

The Commissioner is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

All of the claims remaining in the application are now believed to be in condition for allowance. Favorable consideration is respectfully requested.

Respectfully submitted,

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for

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Enclosures:

Postcard

Petition to Correct Inventorship Under 37 C.F.R. 1.48(a)

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